



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Office of the District Court Executive

COLLEEN MCMAHON
Chief Judge

EDWARD A. FRIEDLAND
District Court Executive

COURT NOTICE TO THE BAR
June 30, 2016

CONTACT
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**Eastern and Southern Districts Propose Revision to Civil Local Rules,
Invite Public Comment**

The United States District Courts for the Eastern and Southern Districts of New York have adopted revisions to the Local Civil Rules and invite public comment.

The Joint SDNY – EDNY Local Rules Committee proposes the following three amendments to the Local Civil Rules:

1. Local Rule 7.1(c)

Unless otherwise ordered by the District Judge to whom the appeal is assigned, appellate briefs on bankruptcy appeals shall comply with the briefing format and length specifications set forth in Federal Rules of Bankruptcy Procedure 8015 to 8017.

This replaces the prior guidelines of appellate briefs on bankruptcy appeals not exceeding 25 pages and 10 pages for reply briefs.

2. Local Rule 23.1 & 23.1.1

The proposal is to add the words “class action” to existing Local Rule 23.1.1 and renumber it as LR 23.1.

3. Local Rule 26.5

Attorneys using form discovery requests shall review them to ascertain that they are consistent with the scope of discovery under Fed. R. Civ. P. 26(b)(1). Non-compliant requests shall not be used.

This replaces the previous guideline stating attorneys using form discovery requests shall review them to ascertain that they are relevant to the subject matter involved in the particular case and that those not relevant to the subject matter shall not be used.

The complete revisions can be found at the court’s website at <http://www.nysd.uscourts.gov>.

Prior to the revised rules taking effect, the public is invited to comment. Comments are to be submitted in writing on or at the close of business on July 28, 2016 to:

Edward A. Friedland
District Court Executive
U.S. District Court for the Southern District of New York
500 Pearl Street, Room 820
New York, NY 10007-1312

or

Douglas C. Palmer
Clerk of Court
U.S. District Court for the Eastern District of New York
225 Cadman Plaza
Brooklyn, NY 11201

The revisions will become effective upon approval by the Second Circuit Judicial Council.

Draft Local Rule 7.1(c) Motion Papers

(c) Unless otherwise ordered by the District Judge to whom the appeal is assigned, appellate briefs on bankruptcy appeals shall ~~not exceed 25 pages and reply briefs shall not exceed 10 pages~~ comply with the briefing format and length specifications set forth in Federal Rules of Bankruptcy Procedure 8015 to 8017.

2016 COMMITTEE NOTE

Local Rule 7.1(c) is amended to conform to the Federal Rules of Bankruptcy Procedure.

Draft Local Civil Rule ~~23.1.1~~ 23.1 Fees in Class Action and Shareholder Derivative Actions

Fees for attorneys or others shall not be paid upon recovery or compromise in a **class action or a** derivative action on behalf of a corporation except as allowed by the Court after a hearing upon such notice as the Court may direct. The notice shall include a statement of the names and addresses of the applicants for such fees and the amounts requested respectively and shall disclose any fee sharing agreements with anyone. Where the Court directs notice of a hearing upon a proposed voluntary dismissal or settlement of a **class action or a** derivative action, the above information as to the applications shall be included in the notice.

2016 COMMITTEE NOTE

The Committee in 2011 recommended that prior Local Rule 23.1 regarding class actions be deleted as unnecessary. The Second Circuit's recent decision in *Bernstein v. Bernstein Litowitz Berger & Grossman LLP*, 814 F.3d 132, 137 n.2 (2d Cir. 2016), stated that the prior Local Rule is not redundant with Fed. R. Civ. P. 23(h) regarding fee sharing arrangements. The Committee therefore recommends reinstating Local Rule 23.1 and combining it with Local Rule 23 .1.1 to cover both class actions and derivative actions.

Draft Local Civil Rule 26.5. Form Discovery Requests [formerly Local Civil Rule 26.6]

Attorneys using form discovery requests shall review them to ascertain that they are **relevant** ~~to the subject matter involved in the particular case. Discovery requests which are not relevant to the subject matter involved in the particular case shall not be used~~ consistent with the scope of discovery under Fed. R. Civ. P. 26(b)(1). Non-compliant requests shall not be used.

2016 COMMITTEE NOTE

The change to Local Rule 26.5 is necessary because the December 2015 amendments to the Federal Rules of Civil Procedure eliminated discovery about the "subject matter," instead limiting discovery to the claims and defenses, as further limited by proportionality factors.